MCCAIN) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution expressing the sense of Congress regarding a free trade agreement between the United States and Taiwan.

S. CON. RES. 113

At the request of Mr. SUNUNU, his name was added as a cosponsor of S. Con. Res. 113, a concurrent resolution congratulating the Magen David Adom Society in Israel for achieving full membership in the International Red Cross and Red Crescent Movement, and for other purposes.

AMENDMENT NO. 4194

At the request of Mr. CARPER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 4194 intended to be proposed to H.R. 8, a bill to make the repeal of the estate tax permanent.

AMENDMENT NO. 4761

At the request of Mr. LOTT, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 4761 intended to be proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 3773. A bill to increase the number of Federal judgeships, in accordance with recommendations by the Judicial Conference, in districts that have an extraordinarily high immigration caseload; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, I rise today with Senators KYL and CORNYN to introduce legislation that creates the new Federal judgeships recommended by the 2005 Judicial Conference for our U.S. district courts that have a serious overload of immigration cases.

I believe it is imperative to equip all of our Federal agencies with the assets they need to secure our borders and enforce our immigration laws. That includes equipping our U.S. district courts with enough judges to handle the criminal immigration cases that appear on their dockets. The immigration reform bill passed by the Senate in May recognizes that with increased border security and immigration enforcement there will be increased prosecutions, and the bill calls for more immigration judges to handle those prosecutions. But the bill fails to recognize that repeat immigration law violators can be charged with a felony and tried in U.S. district court. We need to increase the number of judges in our district courts that handle such cases, particularly in those districts that are already overwhelmed with immigration cases.

The legislation I am proposing creates eleven new Federal judgeships, as recommended by the Judicial Conference, in the U.S. district courts in which at least 50 percent of their criminal cases are immigration cases. The bill affects four districts, all of which border Mexico. In fiscal year 2004, the Western District of Texas had 5599 criminal case filings, 3,688 of those cases, over 65 percent, dealt with immigration. The District Court of Arizona had 4,007 criminal filings, of which 2,404 cases, or 59 percent, were immigration filings. The Southern District of California has 2,206 immigration filings, 64 percent of their 3,400 total criminal filings. Lastly, the District of New Mexico had 2,497 criminal filings, 60 percent of them, 1,502 cases, were immigration cases.

Based on these caseloads, I think we should already be giving these districts new judgeships. But to increase our border security and immigration enforcement efforts without equipping these courts to handle the even larger immigration caseloads that they are expected to face would be tantamount to willful negligence.

The New Mexico District Chief Judge, Martha Vazquez, wrote me a letter in May about the situation the New Mexico District faces. Judge Vazquez wrote:

As it is, the burden on Article III Judges in this District is considerable. This District ranks first among all districts in criminal filings per judgeship: 405 criminal filings compared to the national average of 87. As in all federal districts along the southwest border, the majority of cases filed in this District relate to immigration offenses under United States Code, Title 8 and drug offenses arising under Title 21. Immigration and drug cases account for eighty-five percent of the caseload in the District of New Mexico. . . In fiscal year 1997, there were 240 immigration felony filings in the District of New Mexico. By fiscal year 2005, the number of immigration felony filings increased to 1,826, which is an increase of 661 percent . . . Increasing the number of Immigration Judges will do nothing to reduce the increasing caseload in the border states' federal courts.

The Albuquerque Tribune has also documented the burden immigration cases put on district courts. An April 17 article entitled ''Judges See Ripple Effect of Policy on Immigration,'' stated:

U.S. District Chief Judge Martha Vazquez of Santa Fe oversees a court that faces a rising caseload from illegal border crossings and related crime. And help from Washington is by no means certain . . . From Sept. 30, 1999 to Sept. 30, 2004 (the end of the fiscal year), the caseload in the New Mexico federal district court increased 57.5 percent, from 2,804 to 4,416. In the 2004 fiscal year alone, 2,126 felony cases were heard, almost half of all cases in the entire 10th Circuit, which includes Colorado, Kansas, Oklahoma, Utah and Wyoming. Most typical immigration cases go before an immigration judge, and the subjects are deported. But people deported once and caught crossing illegally again can be charged with a felony. And that brings the defendant into federal district court. Those are the cases driving up New Mexico's caseload . . . Some days as many as 90 defendants crowd the courtroom in Las Cruces . . . The same problems are afflicting federal border courts in Arizona, California, and Texas.

Similar problems were documented in a May 23 Reuters article entitled ''Bush Border Patrol Plan to Pressure Courts'' which said:

President George W. Bush's plan to send thousands of National Guard troops to the U.S.-Mexico border could spark a surge in immigration cases and U.S. courts are ill prepared to handle them . . . Even without the stepped-up security at the border, federal courts in southern California, Arizona, New Mexico and Texas have been overburdened. Carelli [a spokesman for U.S. federal courts] said those five judicial districts, out of 94 nationwide, account for 34 percent of all criminal cases moving through U.S. courts . . . Most immigrants caught crossing illegally are ordered out of the country without prosecution. But that still leaves a growing pile of cases involving illegals who are being prosecuted after being caught multiple times or those accused of other crimes . . . Nationwide, each U.S. judge handles an average of 87 cases a year. But along the southern border, even before Bush's plan moves forward, the average is around 300 per judge, Carelli said.

Mr. President, the U.S. Congress needs to address the overwhelming immigration caseload in our southwestern border U.S. district courts. The bill I am filing today with Senators KYL and CORNYN does just that by authorizing the nine permanent and two temporary judgeships recommended by the 2005 Judicial Conference for the four U.S. districts in which the immigration caseload totals more than fifty percent of those districts' total criminal caseload.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL DISTRICT COURT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, such additional district court judges as are necessary to carry out the 2005 recommendations of the Judicial Conference of the United States for district courts in which the criminal immigration filings totaled more than 50 percent of all criminal filings for the 12-month period ending September 30, 2004.

By Mr. BOND (for himself, Mr. LOTT, Mr. CHAMBLISS, Mr. STEVENS, Mr. COCHRAN, Mr. BURNS, Mr. HATCH, Mr. SANTORUM, Mr. CORNYN, Mr. DOMENICI, Mr. BENNETT, and Mr. ALEXANDER):

S. 3774. A bill to amend title 18, United States Code, to prohibit the unauthorized disclosure of classified information; to the Committee on the Judiciary.

Mr. BOND. Mr. President, I rise to talk about a related area of security. The Defense appropriations bill is extremely important, but I believe that there is another matter we should be considering. I appreciate the courtesy of the managers of the bill for allowing me to present this.

This is legislation that was passed by the Intelligence Committees in 2000. It

had been adopted by unanimous vote, but it was vetoed at the time. This bill very simply provides, for the first time, a simple, clear statement of penalties for Government employees and contractors with access to classified information, who have signed agreements to keep it classified, who knowingly and willfully leak America's most important secrets. Over the past few years, we have seen unauthorized disclosures of classified information at an alarming rate. Each one of the leaks gravely increases the threat to our national security and makes it easier for our enemies to achieve their murderous and destructive plans. Each leak is a window of opportunity for terrorists to discover our sources and methods. Each violation of trust guarantees chaos and violence in the world.

Time and time again, we have witnessed leaks that told our enemies not only that we were watching them and listening to them but how and whom we are cooperating with and how we are getting the information. These leaks have threatened to erode the trust and confidence of the American people and the members of the intelligence community, as well as our allies, built upon years of work. What if during World War II, Americans had seen a leak of the Enigma Program that allowed us to decipher enemy communications and if major media outlets had joined in blowing our most sensitive secret?

Over the past year, there has arisen an apparent absence of fear of punishment in regard to arbitrary divulging of classified information. These are individuals who took solemn vows to protect our Nation. In taking a vow to protect classified information, one should acknowledge that being privy to it establishes a solemn trust. I and all of my colleagues are under obligations as Senators. And as a member of the Intelligence Committee, I have a higher standard to protect classified information. Having that access is a privilege and a trust. There are a number of stinging examples of how these leaks have compromised security. I will not call attention to them because the people who are benefiting from knowing the leaks don't need to know more about it. But a litany of intelligence officials over the past year have told me how much it hurts their efforts.

The former Director of the CIA, Porter Goss, stated in open session that there has been ''very severe'' damage to our national security. He repeated ''very severe.'' I asked the same question to current CIA Director Michael Hayden in his open confirmation hearing about the leaks and he said: We have applied the Darwinian theory to terrorists. Unfortunately, we are only catching the dumb ones because the smart ones who watch the media understand what we are doing and will escape. And many others have repeated that refrain. That was before the leakage of our ability to track terrorist financing efforts occurred in papers.

As I have traveled throughout the world and talked with cooperating overseas officials, they have asked me why they should continue to work with us when we can't keep secrets. Our intelligence chiefs abroad tell me that sources now think twice before speaking with U.S. officers. They fear their information leaking. They said: How can I give you this information if it might be leaked?

What they are really worried about is that leaking their information will identify them and put themselves and their families at risk. This is something which we cannot tolerate if we are to get the intelligence we need.

This is language which has been passed before. It is very simple. It just applies to former or retired officers or employees of the United States or any person who has authorized access and who has agreed to keep it confidential.

First, let me be clear about a couple of things this legislation does not do. It only affects Government employees and contractors who have signed a nondisclosure agreement. It doesn't affect the media, businesses, or private citizens.

Second, it only regards information properly and appropriately classified, not frivolously or inappropriately classified. If there is an overclassification, then I think the courts would easily throw out the prosecution. It doesn't cover the new categories of information developed since 9/11, like sensitive but unclassified or unclassified for official use only. It limits the subject of prosecution to those knowingly and willfully disclosing to someone they know is not authorized to receive it. It is not a ''gotcha'' tool; it is for deliberate leakers.

Well, a Federal judge has pointed out that there is no one piece of legislation that brings together all of our outdated and disparate provisions on the law. The judge has stated that ''the merits of the law are committed to Congress. If it is not sensible, it ought to be changed.'' This is why we are doing this.

Some of my colleagues said it is an insult that you have to pass a bill to protect classified information. One said:

> If they have taken an oath, they don't need the threat of law hanging over them to maintain that oath.

My answer to that one is, where have you been over the past year? I am sorry to inform you that some people need laws to hold them in check. More important, they need prosecution under those laws. There is nothing like an orange jumpsuit on a deliberate leaker to discourage others from going down that path.

I have heard that some say Attorney General Ashcroft recommended that the executive branch not pursue leaks legislation. That is true, but not because it wasn't needed. He said that the onus is on the executive branch to take care to instill a sense of loyalty in its employees to track down leakers and to prevent leakers. He was right. He also said that leaks legislation had value.

I am more than happy to work with my colleagues. I believe it is appropriate to have this debate at a time when Osama bin Laden and al-Zawahiri are warning the United States of future terrorist attacks. It is important to provide protection so that our men and women in the field in places of active hostility, such as Iraq and Afghanistan, can be protected by intelligence that is not compromised.

I ask unanimous consent to have printed in the RECORD a letter dated 31 July from the Association for Intelligence Officers, a group of 4,500 current and former intelligence military and homeland security officers supporting passage of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSOCIATION FOR INTELLIGENCE OFFICERS,
McLean, VA, July 31, 2006.

Hon. CHRISTOPHER BOND,
Senate Select Committee on Intelligence, U.S. Senate.

DEAR SENATOR BOND: On behalf of the Association for Intelligence Officers, a 31-year organization of over 4,500 current and former intelligence, military and homeland security officers, I write in support of your intention to introduce a bill concerning prohibition of the disclosure of classified information by individuals who sign secrecy agreements. We concur that such unauthorized actions have damaged national security.

We note that as early as the 2001 fiscal year, the Congress included such provisions in the Intelligence Authorization Act, but the legislation did not prevail over presidential veto. Since that time, no substantive remedy has appeared.

We understand that the proposed legislation will apply only to government employees and civilian contractors who promised to uphold the secrecy contracts they signed. It will not cover others, such as journalists, nor others not working for the federal government or contractors. It would prohibit only knowing and willful disclosure, so that innocent, inadvertent, or accidental disclosures would not be covered.

We believe there has been an increasing cascade of damaging disclosures of classified information such that a crisis now exists. With no serious punishments nor enforcement of penalties, we lack any meaningful impediment to this growing willful harm to the national interest. As a result, the leaks grow—essentially sabotaging our own intelligence and military operations and causing the deaths of our troops and intelligence operatives. Our allies, understandably, are losing trust that we can engage in mutual operations and hesitate to share crucial intelligence and battlefield information with us.

What leakers think is a harmless bit of back channel policymaking has repercussions down the line that constitute treason and should be treated as such.

We enthusiastically support your efforts. We are ready to provide assistance in whatever manner would prove helpful.

Very respectfully,
S. EUGENE POTEAT,
President, AFIO.

Mr. SESSIONS. Mr. President, first, I thank Senator BOND for dealing with this important issue. We have indeed

reached a point in this country where I think there is confusion about the absolute responsibility and legal requirement to maintain classified information in our Government. We need to be more serious about that. He can speak with authority. His son has served in Iraq and is a fine officer. We appreciate that. He understands these issues deeply. Again, I thank Senator BOND for that.

By Mr. DURBIN (for himself, Mr. COLEMAN, Mr. DEWINE, Mr. FEINGOLD, and Mr. LEAHY):

S. 3775. A bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes; to the Committee on Foreign Relations.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 3775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''African Health Capacity Investment Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act, the term ''HIV/AIDS'' has the meaning given such term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(g)).

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The World Health Report, 2003, Shaping the Future, states, ''The most critical issue facing health care systems is the shortage of people who make them work.''.

(2) The World Health Report, 2006, Working Together for Health, states, ''The unmistakable imperative is to strengthen the workforce so that health systems can tackle crippling diseases and achieve national and global health goals. A strong human infrastructure is fundamental to closing today's gap between health promise and health reality and anticipating the health challenges of the 21st century.''.

(3) The shortage of health personnel, including doctors, nurses, pharmacists, counselors, paraprofessionals, and trained lay workers is one of the leading obstacles to fighting HIV/AIDS in sub-Saharan Africa.

(4) The HIV/AIDS pandemic aggravates the shortage of health workers through loss of life and illness among medical staff, unsafe working conditions for medical personnel, and increased workloads for diminished staff, while the shortage of health personnel undermines efforts to prevent and provide care and treatment for those with HIV/AIDS.

(5) Workforce constraints and inefficient management are limiting factors in the treatment of tuberculosis, which infects over ⅓ of the global population.

(6) Over 1,200,000 people die of malaria each year. More than 75 percent of these deaths occur among African children under the age of 5 years old and the vast majority of these deaths are preventable. The Malaria Initiative of President George W. Bush seeks to reduce dramatically the disease burden of malaria through both prevention and treatment. Paraprofessionals can be instrumental in reducing mortality and economic losses associated with malaria and other health problems.

(7) For a woman in sub-Saharan Africa, the lifetime risk of maternal death is 1 out of 16. In highly developed countries, that risk is 1 out of 2,800. Increasing access to skilled birth attendants is essential to reducing maternal and newborn mortality in sub-Saharan Africa.

(8) The Second Annual Report to Congress on the progress of the President's Emergency Plan for AIDS Relief identifies the strengthening of essential health care systems through health care networks and infrastructure development as critical to the sustainability of funded assistance by the United States Government and states that ''outside resources for HIV/AIDS and other development efforts must be focused on transformational initiatives that are owned by host nations''. This report further states, ''Alongside efforts to support community capacity-building, enhancing the capacity of health care and other systems is also crucial for sustainability. Among the obstacles to these efforts in many nations are inadequate human resources and capacity, limited institutional capacity, and systemic weaknesses in areas such as: quality assurance; financial management and accounting; health networks and infrastructure; and commodity distribution and control.''.

(9) Vertical disease control programs represent vital components of United States foreign assistance policy, but human resources for health planning and management often demands a more systematic approach.

(10) Implementation of capacity-building initiatives to promote more effective human resources management and development may require an extended horizon to produce measurable results, but such efforts are critical to fulfillment of many internationally recognized objectives in global health.

(11) The November 2005 report of the Working Group on Global Health Partnerships for the High Level Forum on the Health Millennium Development Goals entitled ''Best Practice Principles for Global Health Partnership Activities at Country Level'', raises the concern that the collective impact of various global health programs now risks ''undermining the sustainability of national development plans, distorting national priorities, diverting scarce human resources and/or establishing uncoordinated service delivery structures'' in developing countries. This risk underscores the need to coordinate international donor efforts for these vital programs with one another and with recipient countries.

(12) The emigration of significant numbers of trained health care professionals from sub-Saharan African countries to the United States and other wealthier countries exacerbates often severe shortages of health care workers, undermines economic development efforts, and undercuts national and international efforts to improve access to essential health services in the region.

(13) Addressing this problem, commonly referred to as ''brain drain'', will require increased investments in the health sector by sub-Saharan African governments and by international partners seeking to promote economic development and improve health care and mortality outcomes in the region.

(14) Virtually every country in the world, including the United States, is experiencing a shortage of health workers. The Joint Learning Initiative on Human Resources for Health and Development estimates that the global shortage exceeds 4,000,000 workers. Shortages in sub-Saharan Africa, however, are far more acute than in any other region of the world. The World Health Report, 2006, states that ''[t]he exodus of skilled professionals in the midst of so much unmet health need places Africa at the epicentre of the global health workforce crisis.''.

(15) Ambassador Randall Tobias, now the Director of United States Foreign Assistance and Administrator of the United States Agency for International Development, has stated that there are more Ethiopian trained doctors practicing in Chicago than in Ethiopia.

(16) According to the United Nations Development Programme, Human Development Report 2003, approximately 3 out of 4 countries in sub-Saharan Africa have fewer than 20 physicians per 100,000 people, the minimum ratio recommended by the World Health Organization, and 13 countries have 5 or fewer physicians per 100,000 people.

(17) Nurses play particularly important roles in sub-Saharan African health care systems, but approximately ¼ of sub-Saharan African countries have fewer than 50 nurses per 100,000 people or less than ½ the staffing levels recommended by the World Health Organization.

(18) Paraprofessionals can be trained more quickly than nurses or doctors and are critically needed in sub-Saharan Africa to meet immediate health care needs.

(19) Imbalances in the distribution of countries' health workforces represents a global problem, but the impact is particularly acute in sub-Saharan Africa.

(20) In Malawi, for example, more than 95 percent of clinical officers are in urban health facilities, and about 25 percent of nurses and 50 percent of physicians are in the 4 central hospitals of Malawi. Yet the population of Malawi is estimated to be 87 percent rural.

(21) In parts of sub-Saharan Africa, such as Kenya, thousands of qualified health professionals are employed outside the health care field or are unemployed despite job openings in the health sector in rural areas because poor working and living conditions, including poor educational opportunities for children, transportation, and salaries, make such openings unattractive to candidates.

(22) The 2002 National Security Strategy of the United States stated, ''The scale of the public health crisis in poor countries is enormous. In countries afflicted by epidemics and pandemics like HIV/AIDS, malaria, and tuberculosis, growth and development will be threatened until these scourges can be contained. Resources from the developed world are necessary but will be effective only with honest governance, which supports prevention programs and provides effective local infrastructure.''.

(23) Public health deficiencies in sub-Saharan Africa and other parts of the developing world reduce global capacities to detect and respond to potential crises, such as an avian flu pandemic.

(24) On September 28, 2005, Secretary of State Condoleezza Rice declared that ''HIV/AIDS is not only a human tragedy of enormous magnitude; it is also a threat to the stability of entire countries and to the entire regions of the world.''.

(25) Foreign assistance by the United States that expands local capacities, provides commodities or training, or builds on and enhances community-based and national programs and leadership can increase the impact, efficiency, and sustainability of funded efforts by the United States.

(26) African health care professionals immigrate to the United States for the same

set of reasons that have led millions of people to come to this country, including the desire for freedom, for economic opportunity, and for a better life for themselves and their children, and the rights and motivations of these individuals must be respected.

(27) Helping countries in sub-Saharan Africa increase salaries and benefits of health care professionals, improve working conditions, including the adoption of universal precautions against workplace infection, improve management of health care systems and institutions, increase the capacity of health training institutions, and expand education opportunities will alleviate some of the pressures driving the migration of health care personnel from sub-Saharan Africa.

(28) While the scope of the problem of dire shortfalls of personnel and inadequacies of infrastructure in the sub-Saharan African health systems is immense, effective and targeted interventions to improve working conditions, management, and productivity would yield significant dividends in improved health care.

(29) Failure to address the shortage of health care professionals and paraprofessionals, and the factors pushing individuals to leave sub-Saharan Africa will undermine the objectives of United States development policy and will subvert opportunities to achieve internationally recognized goals for the treatment and prevention of HIV/AIDS and other diseases, in the reduction of child and maternal mortality, and for economic growth and development in sub-Saharan Africa.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States should help sub-Saharan African countries that have not already done so to develop national human resource plans within the context of comprehensive country health plans involving a wide range of stakeholders;

(2) comprehensive, rather than piecemeal approaches to advance multiple sustainable interventions will better enable countries to plan for the number of health care workers they need, determine whether they need to reorganize their health workforce, integrate workforce planning into an overall strategy to improve health system performance and impact, better budget for health care spending, and improve the delivery of health services in rural and other underserved areas;

(3) in order to promote systemic, sustainable change, the United States should seek, where possible, to strengthen existing national systems in sub-Saharan African countries to improve national capacities in areas including fiscal management, training, recruiting and retention of health workers, distribution of resources, attention to rural areas, and education;

(4) because foreign-funded efforts to fight HIV/AIDS and other diseases may also draw health personnel away from the public sector in sub-Saharan African countries, the policies and programs of the United States should, where practicable, seek to work with national and community-based health structures and seek to promote the general welfare and enhance infrastructures beyond the scope of a single disease or condition;

(5) paraprofessionals and community-level health workers can play a key role in prevention, care, and treatment services, and in the more equitable and effective distribution of health resources, and should be integrated into national health systems;

(6) given the current personnel shortages in sub-Saharan Africa, paraprofessionals represent a critical potential workforce in efforts to reduce the burdens of malaria, tuberculosis, HIV/AIDS, and other deadly and debilitating diseases;

(7) it is critically important that the governments of sub-Saharan African countries increase their own investments in education and health care;

(8) international financial institutions have an important role to play in the achievement of internationally agreed upon health goals, and in helping countries strike the appropriate balance in encouraging effective public investments in the health and education sectors, particularly as foreign assistance in these areas scales up, and promoting macroeconomic stability;

(9) public-private partnerships are needed to promote creative contracts, investments in sub-Saharan African educational systems, codes of conduct related to recruiting, and other mechanisms to alleviate the adverse impacts on sub-Saharan African countries caused by the migration of health professionals;

(10) colleges and universities of the United States, as well as other members of the private sector, can play a significant role in promoting training in medicine and public health in sub-Saharan Africa by establishing or supporting in-country programs in sub-Saharan Africa through twinning programs with educational institutions in sub-Saharan Africa or through other in-country mechanisms;

(11) given the substantial numbers of African immigrants to the United States working in the health sector, the United States should enact and implement measures to permit qualified aliens and their family members that are legally present in the United States to work temporarily as health care professionals in developing countries or in other emergency situations, as in S. 2611, of the 109th Congress, as passed by the Senate on May 25, 2006;

(12) the President, acting through the United States Permanent Representative to the United Nations, should exercise the voice and vote of the United States—

(A) to ameliorate the adverse impact on less developed countries of the migration of health personnel;

(B) to promote voluntary codes of conduct for recruiters of health personnel; and

(C) to promote respect for voluntary agreements in which individuals, in exchange for individual educational assistance, have agreed either to work in the health field in their home countries for a given period of time or to repay such assistance;

(13) the United States, like countries in other parts of the world, is experiencing a shortage of medical personnel in many occupational specialties, and the shortage is particularly acute in rural and other underserved areas of the country; and

(14) the United States should expand training opportunities for health personnel, expand incentive programs such as student loan forgiveness for Americans willing to work in underserved areas, and take other steps to increase the number of health personnel in the United States.

SEC. 5. ASSISTANCE TO INCREASE HUMAN CAPACITY IN THE HEALTH SECTOR IN SUB-SAHARAN AFRICA.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 135. ASSISTANCE TO INCREASE HUMAN CAPACITY IN THE HEALTH SECTOR IN SUB-SAHARAN AFRICA.

''(a) ASSISTANCE.—

''(1) AUTHORITY.—The President is authorized to provide assistance, including providing assistance through international or nongovernmental organizations, for programs in sub-Saharan Africa to improve human health care capacity.

''(2) TYPES OF ASSISTANCE.—Such programs should include assistance—

''(A) to provide financial and technical assistance to sub-Saharan African countries in developing and implementing new or strengthened comprehensive national health workforce plans;

''(B) to build and improve national and local capacities and sustainable health systems management in sub-Saharan African countries, including financial, strategic, and technical assistance for—

''(i) fiscal and health personnel management;

''(ii) health worker recruitment systems;

''(iii) the creation or improvement of computerized health workforce databases and other human resource information systems;

''(iv) implementation of measures to reduce corruption in the health sector; and

''(v) monitoring, evaluation, and quality assurance in the health field, including the utilization of national and district-level mapping of health care systems to determine capacity to deliver health services;

''(C) to train and retain sufficient numbers of health workers, including paraprofessionals, to provide essential health services in sub-Saharan African countries, including financing, strategic technical assistance for—

''(i) health worker safety and health care, including HIV/AIDS prevention and off-site testing and treatment programs for health workers;

''(ii) increased capacity for training health professionals and paraprofessionals in such subjects as human resources planning and management, health program management, and quality improvement;

''(iii) expanded access to secondary level math and science education;

''(iv) expanded capacity for nursing and medical schools in sub-Saharan Africa, with particular attention to incentives or mechanisms to encourage graduates to work in the health sector in their country of residence;

''(v) incentives and policies to increase retention, including salary incentives;

''(vi) modern quality improvement processes and practices;

''(vii) continuing education, distance education, and career development opportunities for health workers;

''(viii) mechanisms to promote productivity within existing and expanding health workforces; and

''(ix) achievement of minimum infrastructure requirements for health facilities, such as access to clean water;

''(D) to support sub-Saharan African countries with financing, technical support, and personnel, including paraprofessionals and community-based caregivers, to better meet the health needs of rural and other underserved populations by providing incentives to serve in these areas, and to more equitably distribute health professionals and paraprofessionals;

''(E) to support efforts to improve public health capacities in sub-Saharan Africa through education, leadership development, and other mechanisms;

''(F) to provide technical assistance, equipment, training, and supplies to assist in the improvement of health infrastructure in sub-Saharan Africa;

''(G) to promote efforts to improve systematically human resource management and development as a critical health and development issue in coordination with specific disease control programs for sub-Saharan Africa; and

''(H) to establish a global clearinghouse or similar mechanism for knowledge sharing regarding human resources for health, in consultation, if helpful, with the Global Health Workforce Alliance.

''(3) MONITORING AND EVALUATION.—

''(A) IN GENERAL.—The President shall establish a monitoring and evaluation system to measure the effectiveness of assistance by the United States to improve human health care capacity in sub-Saharan Africa in order to maximize the sustainable development impact of assistance authorized under this section and pursuant to the strategy required under subsection (b).

''(B) REQUIREMENTS.—The monitoring and evaluation system shall—

''(i) establish performance goals for assistance provided under this section;

''(ii) establish performance indicators to be used in measuring or assessing the achievement of performance goals;

''(iii) provide a basis for recommendations for adjustments to the assistance to enhance the impact of the assistance; and

''(iv) to the extent feasible, utilize and support national monitoring and evaluation systems, with the objective of improved data collection without the imposition of unnecessary new burdens.

''(b) STRATEGY OF THE UNITED STATES.—

''(1) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of enactment of this Act, the President shall develop and transmit to the appropriate congressional committees a strategy for coordinating, implementing, and monitoring assistance programs for human health care capacity in sub-Saharan Africa.

''(2) CONTENT.—The strategy required by paragraph (1) shall include—

''(A) a description of a coordinated strategy, including coordination among agencies and departments of the Federal Government with other bilateral and multilateral donors, to provide the assistance authorized in subsection (a);

''(B) a description of a coordinated strategy to consult with sub-Saharan African countries and the African Union on how best to advance the goals of this Act; and

''(C) an analysis of how international financial institutions can most effectively assist countries in their efforts to expand and better direct public spending in the health and education sectors in tandem with the anticipated scale up of international assistance to combat HIV/AIDS and other health challenges, while simultaneously helping these countries maintain prudent fiscal balance.

''(3) FOCUS OF ANALYSIS.—It is suggested that the analysis described in paragraph (2)(C) focus on 2 or 3 selected countries in sub-Saharan Africa, including, if practical, 1 focus country as designated under the President's Emergency Plan for AIDS Relief (authorized by the United States Leadership Against Global HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25)) and 1 country without such a designation.

''(4) CONSULTATION.—The President is encouraged to develop the strategy required under paragraph (1) in consultation with the Secretary of State, the Administrator for the United States Agency for International Development, including employees of its field missions, the Global HIV/AIDS Coordinator, the Chief Executive Officer of the Millennium Challenge Corporation, the Secretary of the Treasury, the Director of the Bureau of Citizenship and Immigration Services, the Director of the Centers for Disease Control and Prevention, and other relevant agencies to ensure coordination within the Federal Government.

''(5) COORDINATION.—

''(A) DEVELOPMENT OF STRATEGY.—To ensure coordination with national strategies and objectives and other international efforts, the President should develop the strategy described in paragraph (1) by consulting appropriate officials of the United States Government and by coordinating with the following:

''(i) Other donors.

''(ii) Implementers.

''(iii) International agencies.

''(iv) Nongovernmental organizations working to increase human health capacity in sub-Saharan Africa.

''(v) The World Bank.

''(vi) The International Monetary Fund.

''(vii) The Global Fund to Fight AIDS, Tuberculosis, and Malaria.

''(viii) The World Health Organization.

''(ix) The International Labour Organization.

''(x) The United Nations Development Programme.

''(xi) The United Nations Programme on HIV/AIDS.

''(xii) The European Union.

''(xiii) The African Union.

''(B) ASSESSMENT AND COMPILATION.—The President should make the assessments and compilations required by subsection (a)(3)(B)(v), in coordination with the entities listed in subparagraph (A).

''(c) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date on which the President submits the strategy required in subsection (b), the President shall submit to the appropriate congressional committees a report on the implementation of this section.

''(2) ASSESSMENT OF MECHANISMS FOR KNOWLEDGE SHARING.—The report described in paragraph (1) shall be accompanied by a document assessing best practices and other mechanisms for knowledge sharing about human resources for health and capacity building efforts to be shared with governments of developing countries and others seeking to promote improvements in human resources for health and capacity building.

''(d) DEFINITIONS.—In this section:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

''(2) BRAIN DRAIN.—The term 'brain drain' means the emigration of a significant proportion of a country's professionals working in the health field to wealthier countries, with a resulting loss of personnel and often a loss in investment in education and training for the countries experiencing the emigration.

''(3) HEALTH PROFESSIONAL.—The term 'health professional' means a person whose occupation or training helps to identify, prevent, or treat illness or disability.

''(4) HIV/AIDS.—The term 'HIV/AIDS' has the meaning given such term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2(g)).

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out the provisions of this section—

''(A) $100,000,000 for fiscal year 2007;

''(B) $150,000,000 for fiscal year 2008; and

''(C) $200,000,000 for fiscal year 2009.

''(2) AVAILABILITY OF FUNDS.—Amounts made available under paragraph (1) are authorized to remain available until expended and are in addition to amounts otherwise made available for the purpose of carrying out this section.''.

By Mr. FEINGOLD:

S. 3776. A bill to ensure the provision of high-quality health care coverage for uninsured individuals through State health care initiatives that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today to speak about a crisis facing our country, a crisis that directly affects the lives of 46 million people in the United States, and that indirectly affects many more. The crisis is the lack of universal health insurance in America, and its effects are rippling through our families, our communities, and our economy. It is the No. 1 issue that I hear about in Wisconsin, and it is the No. 1 issue for tens of millions of Americans. Nevertheless, the issue has been largely ignored in the Halls of Congress. We sit idle, locked in a stalemate, refusing to give this life-threatening problem its due attention. We need a way to break that deadlock, and today I am introducing a bill that will do just that—the State-Based Health Care Reform Act.

I believe that health care is a fundamental right, and every American should have guaranteed health care coverage. My bill seeks to move us toward that goal in a way that I hope will be acceptable to many of my colleagues.

Every day, all over our Nation, Americans suffer from medical conditions that cause them pain and even change they way they lead their lives. Every one of us has either experienced this personally or through a family member suffering from cancer, Alzheimer's, diabetes, genetic disorders, mental illness or some other condition. The disease takes its toll on both individuals and families, as trips to the hospital for treatments such as chemotherapy test the strength of the person and the family affected. This is an incredibly difficult situation for anyone. But for the uninsured and underinsured, the suffering goes beyond physical discomfort. These 46 million Americans bear the additional burden of wondering where the next dollar for their health care bills will come from; worries of going into debt; worries of going bankrupt because of health care needs. When illness strikes families, the last thing they should have to think about is money, but I know that for many in our country, this is a persistent burden that causes stress and hopelessness.

It is difficult to do justice to the magnitude of the uninsurance problem, but I want to share a few astounding statistics. Forty-seven percent of the uninsured avoided seeking care in 2003 due to the cost. Thirty-five percent needed care but did not get it. Thirty-seven percent did not fill a prescription because of cost. The uninsured are seven times more likely to seek care in an emergency room. They are less likely to receive preventative care because they cannot afford to see the doctor, and they are more likely to die as a result. Each year, at least 18,000 people die prematurely in this country because of uninsurance. If the uninsured

had access to continuous health coverage, a reduction in mortality of 5 percent to 15 percent could be achieved.

Even for those Americans who currently have health insurance through their employer, the risk of becoming uninsured is very real. Large businesses are finding themselves less competitive in the global market because of skyrocketing health care costs. Small businesses are finding it difficult to offer insurance to employees while staying competitive in their own communities. Our health care system has failed to keep costs in check, and there is simply no way we can expect businesses to keep up. More and more, employers offer sub-par benefits, or no benefits at all. Employers cannot be the sole provider of health care when these costs are rising faster than inflation.

I travel to each of Wisconsin's 72 counties every year to hold townhall meetings. Almost every year, the No. 1 issue raised at these listening sessions is the same—health care. The failure of our health care system brings people to these meetings in droves. These people used to think government involvement was a terrible idea, but not anymore. Now they come armed with their frustration, their anger, and their desperation, and they tell me that their businesses and their lives are being destroyed by health care costs, and they want the government to step in.

Our country can do better, and it will.

Last year, I was pleased to be joined by the Senator from South Carolina, Mr. GRAHAM, in introducing legislation that requires Congress to act on health care reform. It requires Congress to take up and debate universal health care bills within the first 90 days of the session following enactment of the bill. This bill does not prejudge what particular health care reform measure should be debated—it simply requires Congress to act.

Today, I am here to build on the proposal from last year. I am introducing the State-Based Health Care Reform Act. In short, this bill establishes a pilot project to provide States with the resources needed to implement universal health care reform. The bill does not dictate what kind of reform the States should implement; it just provides an incentive for action, provided the States meet certain minimum coverage and low-income requirements.

Over the years I have heard many different proposals for how we should change the health care system in this country. Some propose using tax incentives as a way to expand access to health care. Others think the best approach is to expand public programs. Some feel a national single payer health care system is the only way to go. I have my own preferences, but I don't think we can ignore any of these proposals. We need to consider all of these as we address our broken health care system.

As a former State legislator, I come to this debate appreciating the role that States are playing in coming up with some very innovative solutions to the health care problem. We are already seeing States move ahead of the Federal Government on covering the uninsured. Massachusetts recently passed into law a plan to require health insurance for all residents, and State legislators in my home State of Wisconsin, as well as Vermont, Maine, and California, are working to expand health insurance coverage in their States. The Federal Government should be encouraging these innovative initiatives, and my bill provides the mechanism for this goal to be realized.

This legislation harnesses the talent and ingenuity of Americans to come up with new solutions. This approach takes advantage of America's greatest resources—the mind power and creativity of the American people—to move our country toward the goal of a working health care system with universal coverage. With help from the Federal Government, States will be able to try new ways of covering all their residents, and our political logjam around health care will begin to loosen.

Under my proposal, States can be creative in the State resources they use to expand health care coverage. For example, a State can use personal or employer mandates for coverage, use State tax incentives, create a single-payer system or even join with neighboring States to offer a regional health care plan. The proposals are subject only to the approval of the newly created Health Care Reform Task Force, which will be composed of health care experts, consumers, and representatives from groups affected by health care reform. This task force will be responsible for choosing viable State projects and ensuring that the projects are effective. The Task Force will also help the States develop projects, and will continue a dialog with the States in order to facilitate a good relationship between the State and Federal Governments.

The task force is also charged with making sure that the State plans meet certain minimal requirements. First, the State plans must include specific target dates for decreasing the number of uninsured, and must also identify a set of minimum benefits for every covered individual. These benefits must be comparable to health insurance offered to Federal employees. Second, the State plans must include a mechanism to guarantee that the insurance is affordable. Americans should not go broke trying to keep healthy, and health care reform should ensure that individual costs are manageable. The State-Based Health Care Reform Act bases affordability on income.

Another provision in this legislation requires that the States contribute to paying for their new health care programs. The Federal Government will provide matching funds based on enhanced FMAP—the same standard used for SCHIP—and will then provide an additional 5 percent. States that can afford to provide more are encouraged to, but in order to ensure the financial viability of the bill and to ensure State buy-in, this matching requirement provides a starting point. Other than these requirements, the States largely have flexibility to design a plan that works best for their respective residents. The possibilities for reform are wide open.

One of the main criticisms of Federal Government spending on health care is that it is expensive and increases the deficit. My legislation is fully offset, ensuring that it will not increase the deficit. The bill doesn't avoid making the tough budget choices that need to be made if we are going to pay for health care reform.

One of the offsets in the bill was proposed by the Congressional Budget Office: an increase in the flat rebate paid by drug manufacturers for Medicaid prescription drugs. Currently, Medicaid recoups a portion of its drug spending through a rebate paid by the manufacturer. The savings mechanism would set a flat rebate, and provide funding for the States' health care reform projects.

Additional funding for the bill comes from the President's fiscal year 2007 budget proposal to extend the authority of the Federal Communications Commission to auction the radio spectrum and the authority of Customs and Border Protection to collect multiple different conveyance and passenger user fees through fiscal year 2016. My bill proposes similar extensions of these established authorities. Also, my bill proposes to both simplify and reduce the federal subsidy of airline passenger screening costs by replacing the current variable fee, which is capped at five dollars per one-way trip, with a flat five dollar fee. This proposal is similar to one in the President's fiscal year 2007 budget and would decrease federal subsidies to about thirty percent of passenger security costs, without reducing aviation security spending.

I also pay for this bill with an offset modeled on legislation introduced in the House by my good friend and fellow Wisconsinite TOM PETRI and in the Senate by the senior Senator from Massachusetts that seeks to save money by encouraging higher education institutions to shift from private lenders to the direct loan program, which is most cost-effective for taxpayers. Currently, the Federal Government subsidizes private lenders for the loans they issue to students and this offset would end the current taxpayer-funded subsidies while increasing financial aid to students.

We can say that it is time to move toward universal coverage, but it is empty rhetoric without a feasible plan. I believe that this is the way to make universal coverage work in this country. Universal coverage doesn't mean that we have to copy a system already in place in another country. We can harness our Nation's creativity and entrepreneurial spirit to design a system

that is uniquely American. Universal coverage doesn't have to be defined by what's been attempted in the past. What universal coverage does mean is providing a solution for a broken system where millions are uninsured, and where businesses and Americans are struggling under the burden of health care costs.

It has been over 10 years since the last serious debate over health care reform was killed by special interests and the soft money contributions they used to corrupt the legislative process. The legislative landscape is now much different. Soft money can no longer be used to set the agenda, and businesses and workers are crying out as never before for Congress to do something about the country's health care crisis.

We are fortunate to live in a country that has been abundantly blessed with democracy and wealth, and yet, there are those in our society whose daily health struggles overshadow these blessings. That is an injustice, and it is one we can and must address. Martin Luther King, Jr. said, ''Of all the forms of inequality, injustice in health care is the most shocking and inhumane.'' It is long past time for Congress to heed these words and end this terrible inequality. I urge my colleagues to support the State-Based Health Care Reform Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State-Based Health Care Reform Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Health care remains one of the most important domestic issues for Americans.

(2) According to the Census Bureau, 45,800,000 Americans were uninsured in 2004. Over 8,000,000 of these individuals were children. The number of uninsured has increased by 6,000,000 since 2000.

(3) According to the Commonwealth Fund, many of the uninsured are employed, and an increasing number are from middle-income families:

(A) Two in five working-age Americans with annual incomes between $20,000 and $40,000 were uninsured for at least part of 2005. In 2001, just over one-quarter of those with moderate incomes were uninsured.

(B) Of the estimated 48,000,000 American adults who spent any time uninsured in 2005, two-thirds were in families where at least one person was working full time.

(4) The uninsured face serious financial problems, and often have to choose between medical care and other basic necessities. According to the Commonwealth Fund, more than half of uninsured adults reported medical debt or problems paying bills. Of those, nearly half used up all their savings to pay their bills. Two of five were unable to pay for basic necessities like food, heat, or rent because of medical bills.

(5) Health outcomes for the uninsured are worse than health outcomes for those who are covered. According to the Institute of Medicine, the number of excess deaths among uninsured adults ages 25 to 64 is estimated at around 18,000 a year. Fifty-nine percent of uninsured adults who had a chronic illness, such as diabetes or asthma, did not fill a prescription or skipped their medications because they could not afford them.

(6) The cost of providing care to the uninsured weighs heavily on the United States economy. The United States spends twice as much as any other industrialized nation on health care, and more than the United Kingdom's entire gross domestic product. According to the Kaiser Family Foundation, $124,600,000,000 was spent on care provided to individuals who were uninsured for all or part of 2004. Despite this spending, the United States ranks second to last among industrialized countries in infant mortality rates.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish a program to award grants to States for the establishment of State-based projects to—

(1) increase health care coverage for uninsured individuals in selected States within the 5-year period beginning on the date of enactment of this Act;

(2) ensure high-quality health care coverage that provides adequate access to providers, services, and benefits;

(3) improve the efficiency of health care spending and lower the cost of health care for the participating State; and

(4) encourage universal health care coverage within States.

TITLE I—HEALTH CARE COVERAGE

SEC. 101. STATE-BASED HEALTH CARE COVERAGE PROGRAM.

(a) APPLICATIONS BY STATES, MULTI-STATE REGIONS, LOCAL GOVERNMENTS, AND TRIBES.—

(1) STATE APPLICATION.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care (referred to in this Act as a ''State''), may apply for a State health care reform grant for the entire State (or for regions of two or more States) under paragraph (2).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care reform program shall submit an application to the Health Care Reform Task Force established under subsection (b) (referred to in this section as the ''Task Force'') for approval.

(3) LOCAL GOVERNMENT AND OTHER APPLICATIONS.—

(A) IN GENERAL.—Where a State fails to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Task Force for programs or projects under this section. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional regulations as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit, tribe, or organization can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(b) HEALTH CARE REFORM TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a Health Care Reform Task Force in accordance with this subsection.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Task Force shall be comprised of not less than 20 members to be appointed by the Comptroller General in accordance with subparagraph (B) and the Secretary.

(B) APPOINTED MEMBERS.—With respect to the members appointed by the Comptroller General under subparagraph (A)—

(i) such members shall include consumers of health services who represent individuals who have not had health insurance coverage during the 2-year period prior to the appointment and who have had a chronic illness and are disabled;

(ii) such members shall include individuals—

(I) with expertise in the financing of, and paying for, benefits and access to care;

(II) representing business and labor; and

(III) who are health care providers;

(iii) such members shall include individuals with expertise and experience in State health policy, State government, and local government;

(iv) such members shall have a broad geographic representation and be balanced between urban and rural areas; and

(v) such members shall not include elected officials or paid employees or representatives of associations or advocacy organizations involved in the health care system.

(3) GENERAL DUTIES.—The Task Force shall—

(A) formally approve the application of a State for a grant under this section and the administration of a reform program within the State;

(B) establish minimum performance measures with respect to coverage, quality, and cost of State programs, as described under subsection (c)(1);

(C) conduct a thorough review of the grant application from a State and carry on a dialogue with such State applicants concerning possible modifications and adjustments;

(D) be responsible for monitoring the status and progress achieved under programs and projects granted under this section; and

(E) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction.

(4) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for the life of the Task Force. In appointing members under paragraph (1)(A), the Comptroller General shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy on the Task Force shall not affect its powers, but shall be filled within a reasonable period of time and in the same manner as the original appointment.

(5) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Task Force shall select a Chairperson from among its members.

(B) QUORUM.—A majority of the members of the Task Force shall constitute a quorum, but a lesser number of members may hold hearings.

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Task Force have been appointed, the Task Force shall hold its first meeting. The Task Force shall meet at the call of the Chairperson.

(6) POWERS OF THE TASK FORCE.—

(A) NEGOTIATIONS WITH STATES.—The Task Force may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (c)(4)(B). Such negotiations shall be conducted in a public forum.

(B) SUBCOMMITTEES.—The Task Force may establish such subcommittees as the Task Force determines are necessary to increase the efficiency of the Task Force.

(C) HEARINGS.—The Task Force may hold hearings, so long as the Task Force determines such meetings to be necessary in order to carry out the purposes of this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Task Force considers advisable to carry out the purposes of this subsection.

(D) ANNUAL MEETING.—In addition to other meetings the Task Force may hold, the Task Force shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in section 3 and for an exchange of information.

(E) INFORMATION.—The Task Force may obtain information directly from any Federal department or agency as the Task Force considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Task Force, the head of such department or agency shall furnish such information to the Task Force.

(F) CONTRACTING.—The Task Force may enter into contracts with qualified independent organizations (such as Mathematica or the Institute of Medicine) to obtain necessary information for the development of the performance standards, reporting requirements, financing mechanisms, or any other matters determined by the Task Force to be appropriate and reasonable.

(G) POSTAL SERVICES.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(7) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Task Force who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Task Force. All members of the Task Force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(C) STAFF.—The Chairperson of the Task Force may, without regard to the civil service laws and regulations, appoint and terminate personnel as may be necessary to enable the Task Force to perform its duties.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Task Force without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Task Force may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(8) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $4,000,000 for fiscal year 2007 and each fiscal year thereafter.

(c) STATE PLAN.—

(1) IN GENERAL.—A State that seeks to receive a grant to operate a program under this section shall prepare and submit to the Task Force, as part of the application under subsection (a), a State health care plan that—

(A) designates the lead State entity that will be responsible for administering the State program;

(B) contains a list of the minimum benefits that will be provided to all individuals covered under the State program, which shall, at a minimum, provide for coverage that is comparable to the coverage provided for benefits under any of the plans offered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code or the minimum benefits required under the program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(C) includes specific target dates for decreasing the number of uninsured individuals in the State; and

(D) otherwise complies with this subsection.

(2) COVERAGE.—With respect to coverage for uninsured individuals in the State, the State plan shall—

(A) provide and describe the manner in which the State will ensure that an increased number of such individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, such description to include the manner in which the State will ensure expanded access to health care coverage for low-income individuals within the 5-year target period;

(B) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers; and

(C) describe the minimum benefits package that will be provided to every beneficiary, including information on affordability for beneficiaries.

(3) EFFECTIVENESS AND EFFICIENCY.—The State plan shall include provisions to improve the effectiveness and efficiency of health care in the State, including provisions to attempt to reduce the overall health care costs within the State.

(4) COSTS.—

(A) IN GENERAL.—With respect to the costs of health care provided under the program, the State plan shall—

(i) describe the public and private sector financing to be provided for the State health program;

(ii) estimate the amount of Federal, State, and local expenditures, as well as the costs to business and individuals under the State health program;

(iii) describe how the State plan will ensure the financial solvency of the State health program; and

(iv) contain assurances that the State will comply with the premium and cost sharing limitations described in subparagraph (B).

(B) PREMIUM AND COST SHARING LIMITATIONS.—

(i) PREMIUMS.—In providing health care coverage under a State program under this Act, the State shall ensure that—

(I) with respect to an individual whose family income is at or below 100 percent of the poverty line, the State program shall not require—

(aa) the payment of premiums for such coverage; or

(bb) the payment of cost sharing for such coverage in an amount that exceeds .5 percent of the family's income for the year involved;

(II) with respect to an individual whose family income is greater than 100 percent, but at or below 200 percent, of the poverty line, the State program shall not require—

(aa) the payment of premiums for such coverage in excess of 20 percent of the average cost of providing benefits to an individual or family or 3 percent of the amount of the family's income for the year involved; or

(bb) the payment of cost sharing for such coverage in an amount that, together with the premium amount, does not exceed 5 percent of the family's income for the year involved; and

(III) with respect to an individual whose family income is greater than 200 percent, but at or below 300 percent, of the poverty line, the State program shall not require—

(aa) the payment of premiums for such coverage in excess of 20 percent of the average cost of providing benefits to an individual or family or 5 percent of the amount of the family's income for the year involved; or

(bb) the payment of cost sharing for such coverage in an amount that, together with the premium amount, does not exceed 7 percent of the family's income for the year involved.

(ii) DEFINITION.—For purposes of this subparagraph, the term ''poverty line'' has the meaning given such term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(5) PROTECTION FOR LOWER INCOME INDIVIDUALS.—The State plan may only vary premiums, deductibles, coinsurance, and other cost sharing under the plan based on the family income of the family involved in a manner that does not favor individuals from families with higher income over individuals from families with lower income.

(d) REVIEW; DETERMINATION; AND PROJECT PERIOD.—

(1) INITIAL REVIEW.—With respect to a State application for a grant under subsection (a), the Secretary and the Task Force shall, not later than 90 days after receipt of such application, complete an initial review of such State application, an analysis of the scope of the proposal, and a determination of whether additional information is needed from the State. The Task Force shall advise the State within such 90-day period of the need to submit additional information.

(2) FINAL DETERMINATION.—Not later than 90 days after completion of the initial review under paragraph (1), the Task Force shall determine whether to approve such application. Such application may be approved only if ⅔ of the members of the Task Force vote to approve such application.

(3) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of not to exceed 5 years and may be extended for subsequent 5-year periods upon approval by the Task Force and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) REQUIRED CONGRESSIONAL ACTION.—It is the sense of the Senate that, not later than 45 days after receiving the report submitted under subsection (g)(2), each committee to which such report is submitted should hold at least 1 hearing concerning such report and the recommendations contained in such report.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (d)(2) to enable such State to carry out the State health program under the grant.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Task Force, subject to the amount appropriated under subsection (k).

(3) MATCHING REQUIREMENT.—To be eligible to receive a grant under paragraph (1), a State shall provide assurances to the Secretary that the State shall contribute to the costs of carrying out activities under the grant an amount equal to not less than the product of—

(A) the amount of the grant; and

(B) the sum of the enhanced FMAP for the State (as defined in section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b))) and 5 percent.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(g) REPORTS.—

(1) BY STATES.—Each State that has received a grant under subsection (f)(1) shall submit to the Task Force an annual report for the period representing the respective State's fiscal year, that shall contain a description of the results, with respect to health care coverage, quality, and costs, of the State program.

(2) BY TASK FORCE.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the Task Force established under subsection (b) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain—

(A) the recommendation of the Task Force concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection;

(B) an evaluation of the effectiveness of State health care coverage reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(C) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(D) recommendations concerning whether any particular State program should serve as a model for implementation as a national health care reform program.

(h) PROTECTIONS FOR FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Task Force, a State, or any other person or entity to alter or affect in any way the provisions of titles XIX and XXI of such Act (42 U.S.C. 1396 et seq. and 1397 et seq.) or the regulations implementing such titles.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(i) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE XIX PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE XI PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(j) AUTHORIZATIONS.—

(1) IN GENERAL.—There are appropriated in each of fiscal years 2007 through 2016 to carry out this Act, an amount equal to the amount of savings to the Federal Government in each such fiscal year as a result of the enactment of the provisions of title II.

(2) USE OF FUNDS.—Amounts appropriated for a fiscal year under paragraph (1) and not expended may be used in subsequent fiscal years to carry out this section.

(3) LIMITATION.—Notwithstanding any other provision of this Act, the total amount of funds appropriated to carry out this Act through fiscal year 2016 shall not exceed $32,000,000,000.

TITLE II—OFFSETS

SEC. 201. INCREASE IN REBATES FOR COVERED OUTPATIENT DRUGS.

Section 1927(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(B)(i)) is amended—

(1) in subclause (IV), by striking ''and'' after the semicolon;

(2) in subclause (V)—

(A) by inserting ''and before January 1, 2007,'' after ''1995,''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(VI) after December 31, 2006, is 20 percent.''.

SEC. 202. STUDENT AID REWARD PROGRAM.

Part G of title IV of the Higher Education Act of 1965 is amended by inserting after section 489 (20 U.S.C. 1096) the end the following:

''SEC. 489A. STUDENT AID REWARD PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a Student Aid Reward Program to encourage institutions of higher education to participate in the student loan program under this title that is most cost-effective for taxpayers.

''(b) PROGRAM REQUIREMENTS.—In carrying out the Student Aid Reward Program, the Secretary shall—

''(1) provide to each institution of higher education participating in the student loan program under this title that is most cost-effective for taxpayers a Student Aid Reward Payment, in an amount determined in accordance with subsection (c), to encourage the institution to participate in that student loan program;

''(2) require each institution of higher education receiving a payment under this section to provide student loans under that student loan program for a period of 5 years from the date the payment is made;

''(3) where appropriate, require that funds paid to institutions of higher education under this section be used to award students a supplement to such students' Pell Grants under subpart 1 of part A;

''(4) permit such funds to also be used to award lower and middle income graduate students need-based grants; and

''(5) encourage all institutions of higher education to participate in the Student Aid Reward Program.

''(c) AMOUNT.—The amount of a Student Aid Reward Payment under this section shall be not less than 50 percent, and not more than 75 percent, of the savings to the Federal Government generated by the institution's participation in the student loan program under this title that is most cost-effective for taxpayers instead of the institution's participation in the student loan program not cost-effective for taxpayers.

''(d) TRIGGER TO ENSURE COST NEUTRALITY.—

''(1) LIMIT TO ENSURE COST NEUTRALITY.—Notwithstanding subsection (c), the Secretary shall not distribute Student Aid Reward Payments under the Student Aid Reward Program that, in the aggregate, exceed the Federal savings resulting from implementation of the Student Aid Reward Program.

''(2) FEDERAL SAVINGS.—In calculating Federal savings, as used in paragraph (1), the Secretary shall determine Federal savings on loans made to students at institutions of higher education that participate the student loan program under this title that is most cost-effective for taxpayers and that, on the date of enactment of the Student Aid Reward Program, participated in the student loan program that is not the most cost-effective for taxpayers, resulting from the difference of—

''(A) the Federal cost of loan volume made under the student loan program under this title that is most cost-effective for taxpayers; and

''(B) the Federal cost of an equivalent type and amount of loan volume made, insured, or guaranteed under the student loan program under this title that is not the most cost-effective for taxpayers.

''(3) DISTRIBUTION RULES.—If the Federal savings determined under paragraph (2) is not sufficient to distribute full Student Aid Reward Payments under the Student Aid Reward Program, the Secretary shall—

''(A) first make Student Aid Reward Payments to those institutions of higher education that participated in the student loan program under this title that is not the most cost-effective for taxpayers on the date of enactment of the Student Aid Reward Program; and

''(B) with any remaining Federal savings after making Payments under subparagraph (A), make Student Aid Reward Payments to the institutions of higher education not described in subparagraph (A) on a pro-rata basis.

''(4) DISTRIBUTION TO STUDENTS.—Any institution of higher education that receives a Student Aid Reward Payment under this section—

''(A) shall distribute, where appropriate, part or all of such payment among the students of such institution who are Pell Grant recipients by awarding such students a supplemental grant; and

''(B) may distribute part of such payment as a supplemental grant to graduate students in financial need.

''(5) ESTIMATES, ADJUSTMENTS, AND CARRY OVER.—

''(A) ESTIMATES AND ADJUSTMENTS.—The Secretary may make Student Aid Reward Payments to institutions of higher education on the basis of estimates, using the best data available at the beginning of an academic/fiscal year. If the Secretary determines thereafter that loan program costs for that academic/fiscal year were different than such estimate, the Secretary shall adjust (reduce or increase) subsequent Student Aid Reward Payments rewards paid to such institutions of higher education to reflect such difference.

''(B) CARRY OVER.—Any institution of higher education that receives a reduced Student Aid Reward Payment under paragraph (3)(B), shall remain eligible for the unpaid portion of such institution's financial reward payment, as well as any additional financial reward payments for which the institution is otherwise eligible, in subsequent academic or fiscal years.

''(e) DEFINITION.—For purposes of this section—

''(1) the student loan program under this title that is most cost-effective for taxpayers is the loan program under part B or D of this title that has the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts; and

''(2) the student loan program under this title that is not most cost-effective for taxpayers is the loan program under part B or D of this title that does not have the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.''.

SEC. 203. AVIATION SECURITY SERVICE PASSENGER FEES.

Section 44940 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''in an amount equal to $5.00 per one-way trip'' after ''uniform fee'';

(2) by striking subsection (c); and

(3) in subsection (d)—

(A) in paragraph (2), by striking ''subsection (d)'' each place it appears and inserting ''this subsection''; and

(B) in paragraph (3), by striking ''in accordance with paragraph (1)'' and inserting ''under subsection (a)(2)''.

SEC. 204. EXTENSION OF FCC SPECTRUM AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011'' and inserting ''2016''.

SEC. 205. EXTENSION OF FEES FOR CERTAIN CUSTOMS SERVICES.

Section 13031(j)(3)(A) and (B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A) and (B)) is amended by striking ''2014'' each place it appears and inserting ''2016''.

By Mr. KERRY:

S. 3777. A bill to amend the Internal Revenue Code of 1986 to ensure a fairer and simpler method of taxing controlled foreign corporations of United States shareholders, to treat certain foreign corporations managed and controlled in the United States as domestic corporations, to codify the economic substance doctrine, and to eliminate the top corporate income tax rate, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Export Products Not Jobs Act of 2006. Tomorrow, the Senate Finance Committee will hold a hearing to tackle the issue of tax reform and will hear from the chairman and vice chairman of the President's Advisory Panel on Federal Tax Reform. The panel's report took a broad look at our current tax law and made numerous recommendations. I agree with some of the recommendations and have concerns about others, but believe that the report provides a good starting place for a thorough discussion of tax reform.

In 1994, the IRS estimated that a family that itemized their deductions and had some interest and capital gains would spend 11½ hours preparing their Federal income tax return. This estimate has increased to 19 hours and 45 minutes in 2004. It is time for Congress to pass bipartisan tax legislation in the style of Tax Reform Act of 1986, which greatly simplified Tax Code. And our tax reform should be based upon the following three principles: fairness, simplicity, and opportunity for economic growth.

Our Tax Code is extremely complicated. Citizens and businesses struggle to comply with rules governing: taxation of business income, capital gains, income phase-outs, extenders, the myriad savings vehicles, record-keeping for itemized deductions, the alternative minimum tax, AMT, the earned-income tax credit, EITC, and taxation of foreign business income. I believe that our international tax system needs to be simplified and reformed to encourage businesses to remain in the United States. And today, I am introducing legislation that I hope will be fully considered as we begin our discussions on tax reform.

Presently, the complexities of our international tax system actually encourage U.S. corporations to invest overseas. Current tax laws allow companies to defer paying U.S. taxes on income earned by their foreign subsidiaries, which provides a substantial tax break for companies that move investment and jobs overseas. Today, under U.S. tax law, a company that is trying to decide where to locate production or services—either in the United States or in a foreign low-tax haven—is actually given a substantial tax incentive not only to move jobs overseas but to reinvest profits permanently, as opposed to bringing the profits back to re-invest in the United States.

Recent press articles have revealed examples of companies taking advantage of this perverse incentive in our Tax Code. For instance, some companies have taken advantage of this initiative by opening subsidiaries to serve markets throughout Europe. Much of the profit earned by these subsidiaries will stay in Ireland and the companies will therefore avoid paying U.S. taxes. Other companies have announced the expansion of jobs in India. This reflects a continued pattern among some U.S. multinational companies of shifting software development and call centers to India, and this trend is starting to expand to include the shifting of critical functions like design and research

and development to India as well. Some companies are even outsourcing the preparation of U.S. tax returns.

The Export Products Not Jobs Act of 2006 would put an to end to these practices by eliminating tax breaks that encourage companies to move jobs overseas and by using the savings to create jobs in the United States by repealing the top corporate tax rate. This legislation ends tax breaks that encourage companies to move jobs by: (1) eliminating the ability of companies to defer paying U.S. taxes on foreign income; (2) closing abusive corporate tax loopholes; and (3) repealing the top corporate rate. It removes the incentive to shift jobs overseas by eliminating deferral so that companies pay taxes on their international income as they earn it, rather than being allowed to defer taxes.

Last month, the Ways and Means Subcommittee on Revenue held a hearing on international tax laws. Stephen Shay, a former Reagan Treasury official, testified that our tax rules ''provide incentives to locate business activity outside the United States.'' Furthermore, he suggested that taxation of U.S. shareholders under an expansion of Subpart F would be a ''substantial improvement'' over our current system. The Export Products Not Jobs Act of 2006 does just that.

Our current tax system punishes U.S. companies that choose to create and maintain jobs in the United States. These companies pay higher taxes and suffer a competitive disadvantage with a company that chooses to move jobs to a foreign tax haven. There is no reason why our Tax Code should provide an incentive that encourages investment and job creation overseas. Under my legislation, companies would be taxed the same whether they invest abroad or at home; they will be taxed on their foreign subsidiary profits just like they are taxed on their domestic profits.

This legislation reflects the most sweeping simplification of international taxes in over 40 years. Our economy has changed in the last 40 years and our tax laws need to be updated to keep pace. Our current global economy was not even envisioned when existing law was written.

The Export Products Not Jobs Act of 2006 that I am introducing today will not hinder our global competitiveness. Companies will be able to continue to defer income they earn when they locate production in a foreign country that serves that foreign country's markets. For example, if a U.S. company wants to open a hotel in Bermuda or a car factory in India to sell cars, foreign income can still be deferred. But if a company wants to open a call center in India to answer calls from outside India or relocate abroad to sell cars back to the United States or Canada, the company must pay taxes just like call centers and auto manufacturers located in the United States.

Currently, American companies allocate their revenue not in search of the highest return, but in search of lower taxes. Eliminating deferral will improve the efficiency of the economy by making taxes neutral so that they do not encourage companies to overinvest abroad solely for tax reasons.

The Congressional Research Service stated in a 2003 report that, ''[a]ccording to traditional economic theory, deferral thus reduces economic welfare by encouraging firms to undertake overseas investments that are less productive—before taxes are considered—than alternative investments in the United States.'' Additionally, a 2000 Department of Treasury study on deferral stated, ''[a]mong all of the options considered, ending deferral would also be likely to have the most positive long-term effect on economic efficiency and welfare because it would do the most to eliminate tax considerations from decisions regarding the location of investment.''

The revenue raised from the repeal of deferral and closing corporate loopholes would be used to repeal the top corporate tax rate of 35 percent. The tax differential between U. S. corporate rates and foreign corporate rates has grown over the last two decades and the repeal of the top corporate rate is a start in narrowing this gap.

The Export Products Not Jobs Act of 2006 would promote equity among U.S. taxpayers by ensuring that corporations could not eliminate or substantially reduce taxation of foreign income by separately incorporating their foreign operations. This legislation will eliminate the tax incentives to encourage U.S. companies to invest abroad and reward those companies that have chosen to invest in the United States. I urge my colleagues to join me in this effort, and ask for unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Export Products Not Jobs Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—FOREIGN TAX REFORM AND SIMPLIFICATION

SEC. 101. REFORM AND SIMPLIFICATION OF SUBPART F.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 (relating to controlled foreign corporations) is amended by striking sections 952, 953, and 954 and inserting the following:

''SEC. 952. SUBPART F INCOME DEFINED.

''(a) IN GENERAL.—For purposes of this subpart, except as provided in this section, the term 'subpart F income' means the gross income of the controlled foreign corporation.

''(b) EXCEPTIONS FOR CERTAIN TYPES OF INCOME.—Subpart F income shall not include—

''(1) the active home country income (as defined in section 953) of the controlled foreign corporation for the taxable year, or

''(2) any item of income for the taxable year from sources within the United States which is effectively connected with the conduct by the controlled foreign corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States. For purposes of paragraph (2), income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States and any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.

''(c) LIMITATION BASED ON EARNINGS AND PROFITS.—

''(1) IN GENERAL.—For purposes of subsection (a), the subpart F income of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such taxable year.

''(2) RECHARACTERIZATION IN SUBSEQUENT TAXABLE YEARS.—If the subpart F income of any controlled foreign corporation for any taxable year was reduced by reason of paragraph (1), any excess of the earnings and profits of such corporation for any subsequent taxable year over the subpart F income of such foreign corporation for such taxable year shall be recharacterized as subpart F income under rules similar to the rules applicable under section 904(f)(5).

''(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

''(d) DE MINIMIS EXCEPTION.—If the subpart F income of a controlled foreign corporation for any taxable year (determined without regard to this subsection and section 954(a)) is less than the lesser of—

''(1) 5 percent of gross income, or

''(2) $1,000,000,

the subpart F income of such corporation for such taxable year shall be treated as being equal to zero.

''(e) SPECIAL RULES RELATING TO BOYCOTTS, BRIBES, AND CERTAIN FOREIGN COUNTRIES.—

''(1) IN GENERAL.—Subpart F income of a controlled foreign corporation for any taxable year (determined without regard to this subsection) shall be increased by the sum of—

''(A) the product of—

''(i) the gross income of the corporation reduced by its subpart F income (as so determined), and

''(ii) the international boycott factor (as determined under section 999),

''(B) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government, and

''(C) the gross income of such corporation which is derived from any foreign country during any period during which section 901(j) applies to such foreign country and which is not otherwise treated as subpart F income (as so determined).

''(2) SPECIAL RULE FOR ILLEGAL PAYMENTS.—The payments referred to in paragraph (1)(B) are payments which would be

unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person.

''(3) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of paragraph (1)(C), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 901(j) applies if such income was, without regard to such entities, derived from such country.

''SEC. 953. ACTIVE HOME COUNTRY INCOME.

''(a) IN GENERAL.—For purposes of section 952(b), the term 'active home country income' means, with respect to any controlled foreign corporation, income derived from the active and regular conduct of 1 or more trades or businesses within the home country of such corporation which constitutes—

''(1) qualified property income, or

''(2) qualified services income.

''(b) QUALIFIED PROPERTY INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified property income' means income derived in connection with—

''(A) the manufacture, production, growth, or extraction (in whole or in substantial part)of any personal property within the home country of the controlled foreign corporation, or

''(B) the resale by the controlled foreign corporation within its home country of personal property manufactured, produced, grown, or extracted (in whole or in substantial part) within that home country.

''(2) PROPERTY MUST BE USED OR CONSUMED IN HOME COUNTRY.—Paragraph (1) shall only apply to income if the personal property is sold for use or consumption within the home country.

''(c) QUALIFIED SERVICES INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified services income' means income (other than qualified property income) derived in connection with the providing of services in transactions with customers which, at the time the services are provided, are located in the home country of such corporation.

''(2) SERVICES MUST BE USED IN HOME COUNTRY.—Paragraph (1) shall only apply to income if the services—

''(A) are used or consumed in the home country of the controlled foreign corporation, or

''(B) are used in the active conduct of a trade or business by the recipient and substantially all of the activities in connection with the trade or business are conducted by the recipient in such home country.

''(3) SPECIAL RULE FOR INSURANCE INCOME.—If income of a controlled foreign corporation—

''(A) is attributable to the issuing (or reinsuring) of an insurance or annuity contract, and

''(B) would (subject to the modifications under section 954(c)(2)(B)) be taxed under subchapter L of this chapter if such income were the income of a domestic corporation,

such income shall be treated as qualified services income only if the contract covers only risks in connection with property in, liability arising out of activity in, or lives or health of residents of, the home country of such corporation.

''(4) ANTI-ABUSE RULE.—For purposes of this subsection, there shall be disregarded any item of income of a controlled foreign corporation derived in connection with any trade or business if, in the conduct of the trade or business, the corporation is not engaged in regular and continuous transactions with customers which are not related persons.

''(d) HOME COUNTRY.—For purposes of this section, the term 'home country' means, with respect to a controlled foreign corporation, the country in which such corporation is created or organized.

''SEC. 954. OTHER RULES AND DEFINITIONS RELATING TO SUBPART F INCOME.

''(a) DEDUCTIONS TO BE TAKEN INTO ACCOUNT.—For purposes of determining the subpart F income of a controlled foreign corporation for any taxable year, gross income, and any category of income described in subsection (b) or (c) of section 953, shall be reduced by deductions (including taxes) properly allocable to such income or category. The Secretary shall prescribe regulations for the application of this subsection.

''(b) ELECTION BY CONTROLLED FOREIGN CORPORATION TO BE TREATED AS DOMESTIC CORPORATION.—

''(1) IN GENERAL.—If—

''(A) a foreign corporation is a controlled foreign corporation which makes an election to have this subsection apply and waives all benefits to such corporation granted by the United States under any treaty, and

''(B) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid,

such corporation shall be treated as a domestic corporation for purposes of this title.

''(2) PERIOD DURING WHICH ELECTION IS IN EFFECT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(B) TERMINATION.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraph (B) of paragraph (1) for any subsequent taxable year, such election shall not apply to such subsequent taxable year and all succeeding taxable years.

''(3) TREATMENT OF LOSSES.—If any corporation treated as a domestic corporation under this subsection is treated as a member of an affiliated group for purposes of chapter 6 (relating to consolidated returns), any loss of such corporation shall be treated as a dual consolidated loss for purposes of section 1503(d) without regard to paragraph (2)(B) thereof.

''(4) EFFECT OF ELECTION.—

''(A) IN GENERAL.—For purposes of section 367, any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

''(B) EXCEPTION FOR PRE-2007 EARNINGS AND PROFIT.—

''(i) IN GENERAL.—Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 2007, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A).

''(ii) TREATMENT OF DISTRIBUTIONS.—For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 2007, shall be treated as a distribution made by a foreign corporation.

''(iii) CERTAIN RULES TO CONTINUE TO APPLY TO PRE-2007 EARNINGS.—The provisions specified in clause (iv) shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 2007, shall be taken into account.

''(iv) SPECIFIED PROVISIONS.—The provisions specified in this clause are:

''(I) Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

''(II) Subpart F of part III of subchapter N to the extent such subpart relates to earnings invested in United States property or amounts referred to in clause (ii) or (iii) of section 951(a)(1)(A).

''(5) EFFECT OF TERMINATION.—For purposes of section 367, if—

''(A) an election is made by a corporation under paragraph (1) for any taxable year, and

''(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

''(c) SPECIAL RULE FOR CERTAIN CAPTIVE INSURANCE COMPANIES.—

''(1) IN GENERAL.—Solely for purposes of applying this subpart to related person insurance income—

''(A) the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)) any stock of the foreign corporation,

''(B) the term 'controlled foreign corporation' has the meaning given to such term by section 957(a) determined by substituting '25 percent or more' for 'more than 50 percent', and

''(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection.

''(2) RELATED PERSON INSURANCE INCOME.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'related person insurance income' means any income which—

''(i) is attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is a United States shareholder in the foreign corporation or a related person to such a shareholder, and

''(ii) would (subject to the modifications provided by subparagraph (B)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance company.

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) The following provisions of subchapter L shall not apply:

''(I) The small life insurance company deduction.

''(II) Section 805(a)(5) (relating to operations loss deduction).

''(III) Section 832(c)(5) (relating to certain capital losses).

''(ii) The items referred to in—

''(I) section 803(a)(1) (relating to gross amount of premiums and other considerations),

''(II) section 803(a)(2) (relating to net decrease in reserves),

''(III) section 805(a)(2) (relating to net increase in reserves), and

''(IV) section 832(b)(4) (relating to premiums earned on insurance contracts),

shall be taken into account only to the extent they are in respect of any reinsurance or the issuing of any insurance or annuity contract described in subparagraph (A).

''(iii) Reserves for any insurance or annuity contract shall be determined in the same

manner as if the controlled foreign corporation were subject to tax under subchapter L, except that in applying such subchapter—

''(I) the interest rate determined for the functional currency of the corporation and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate,

''(II) the highest assumed interest rate permitted to be used in determining foreign statement reserves shall be substituted for the prevailing State assumed interest rate, and

''(III) tables for mortality and morbidity which reasonably reflect the current mortality and morbidity risks in the corporation's home country shall be substituted for the mortality and morbidity tables otherwise used for such subchapter.

''(iv) All items of income, expenses, losses, and deductions shall be properly allocated or apportioned under regulations prescribed by the Secretary.

''(3) EXCEPTION FOR CORPORATIONS NOT HELD BY INSUREDS.—Paragraph (1) shall not apply to any foreign corporation if at all times during the taxable year of such foreign corporation—

''(A) less than 20 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

''(B) less than 20 percent of the total value of such corporation,

is owned (directly or indirectly under the principles of section 883(c)(4)) by persons who are (directly or indirectly) insured under any policy of insurance or reinsurance issued by such corporation or who are related persons to any such person.

''(4) TREATMENT OF MUTUAL INSURANCE COMPANIES.—In the case of a mutual insurance company—

''(A) this subsection shall apply,

''(B) policyholders of such company shall be treated as shareholders, and

''(C) appropriate adjustments in the application of this subpart shall be made under regulations prescribed by the Secretary.

''(5) DETERMINATION OF PRO RATA SHARE.—

''(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

''(i) the amount which would be determined under paragraph (2) of section 951(a) if—

''(I) only related person insurance income were taken into account,

''(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

''(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

''(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

''(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A).

''(6) RELATED PERSON.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by subsection (d)(3).

''(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

''(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

''(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation.

''(d) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) TREATMENT OF BRANCHES.—If—

''(A) a controlled foreign corporation carries on activities through a branch or similar establishment with a home country other than the home country of such corporation, and

''(B) the carrying on of such activities in such manner has substantially the same effect as if such branch or similar establishment were a wholly owned subsidiary of such corporation,

this subpart shall, under regulations prescribed by the Secretary, be applied as if such branch or other establishment were a wholly owned subsidiary of such corporation.

''(2) HOME COUNTRY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'home country' has the meaning given such term by section 953(d).

''(B) BRANCH.—In the case of a branch or similar establishment, the term 'home country' means the foreign country in which—

''(i) the principal place of business of the branch or similar establishment is located, and

''(ii) separate books and accounts are maintained.

''(3) RELATED PERSON DEFINED.—For purposes of this section, a person is a related person with respect to a controlled foreign corporation, if—

''(A) such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the controlled foreign corporation, or

''(B) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation.

For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total voting power of all classes of stock entitled to vote or of the total value of stock of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of more than 50 percent (by value) of the beneficial interests in such partnership, trust, or estate. For purposes of this paragraph, rules similar to the rules of section 958 shall apply.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the items relating to sections 953 and 954 and inserting:

''Sec. 953. Active home country income.
''Sec. 954. Other rules and definitions relating to subpart F income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2006, and taxable years of United States shareholders with or within which such taxable years of such corporations end.

SEC. 102. TREATMENT OF FOREIGN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Section 7701(a)(4) of the Internal Revenue Code of 1986 (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—The term 'domestic' means, when applied to a corporation or partnership, a corporation or partnership which is created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) INCOME TAX EXCEPTION FOR PUBLICLY-TRADED CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES.—Notwithstanding subparagraph (A), in the case of a corporation the stock of which is regularly traded on an established securities market, if—

''(i) the corporation would not otherwise be treated as a domestic corporation for purposes of this title, but

''(ii) the management and control of the corporation occurs primarily within the United States,

then, solely for purposes of chapter 1 (and any other provision of this title relating to chapter 1), the corporation shall be treated as a domestic corporation.

''(C) MANAGEMENT AND CONTROL.—For purposes of this paragraph, the management and control of a corporation shall be treated as primarily occurring within the United States if substantially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are primarily located within the United States. The Secretary may by regulations include other individuals not described in the preceding sentence in the determination of whether the management and control of the corporation occurs primarily within the United States if such other individuals exercise the day-to day responsibilities described in the preceding sentence.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date which is 2 years after the date of the enactment of this Act.

TITLE II—ECONOMIC SUBSTANCE DOCTRINE

SEC. 201. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction

and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 202. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e)

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 203. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).'', and

(2) by inserting ''**AND NONECONOMIC SUBSTANCE TRANSACTIONS**'' in the heading thereof after ''**TRANSACTIONS**''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

TITLE III—ELIMINATION OF HIGHEST CORPORATE MARGINAL INCOME TAX RATE

SEC. 301. ELIMINATION OF HIGHEST CORPORATE MARGINAL INCOME TAX RATE.

(a) IN GENERAL.—Section 11(b)(1) (relating to amount of tax imposed on corporations) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) 34 percent of so much of the taxable income as exceeds $75,000.''.

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Section 11(b)(2) is amended by striking ''35 percent'' and inserting ''34 percent''.

(c) CONFORMING AMENDMENTS.—

(1) Section 11(b)(1) is amended by striking the last sentence.

(2) Section 1201(a) is amended—

(A) by striking ''35 percent'' each place it appears and inserting ''34 percent'', and

(B) by striking ''last 2 sentences'' and inserting ''last sentence''.

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking ''35 percent'' and inserting ''34 percent''.

(4) Section 1561(a) is amended by striking ''last 2 sentences'' and inserting ''last sentence''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

By Ms. SNOWE:

S. 3778. An original bill to reauthorize and improve the Small Business Act and the Small Business Act of 1958, and for other purposes; from the Committee on Small Business and Entrepreneurship; placed on the calendar.

Ms. SNOWE. Mr. President, as chair of the Senate Committee on Small Business and Entrepreneurship, I rise today to introduce a bill, The Small Business Reauthorization and Improvements Act of 2006, that was reported by the committee on a vote of 18 to 0.

I strongly believe we must do everything possible to sustain prosperity and job creation throughout Maine and the United States. To achieve that goal, I have long fought to expand the reach of Small Business Administration programs that have helped millions of aspiring entrepreneurs and existing small businesses.

Today is a pivotal time for the SBA. A new Administrator, Steven C. Preston, has been sworn in, and I have held hearings on the reauthorization of the agency's programs that are set to expire September 30, 2006. The reauthorization and funding of SBA programs is vital to the continued growth of the economy and the small business community. My goal is for the process to conclude with a renewed SBA that is completely dedicated to fostering small business ownership and job creation in America.

The SBA's fundamental purpose is to ''aid, counsel, assist, and protect the interests of small-business concerns.'' The methods for carrying out this congressional mandate include a wide array of financial, procurement, management, and technical assistance programs tailored to encourage small business growth and expansion. As the economy continues to grow, it is essential that Congress affirms long-term stability in the programs the SBA provides to the small business community. The American economy needs a strong and vibrant SBA because small businesses represent 99 percent of all employers, create nearly 75 percent of all net new jobs, and employ 51 percent of the private-sector workforce.

There is no doubt that SBA's technical assistance programs have demonstrated impressive growth. During fiscal year 2005, the SBA provided 56,739 small businesses with technical assistance. That was an astounding 46.4 percent increase from the 38,754 small businesses assisted in fiscal year 2004.

If there is truth in numbers, the SBA has numerous ''truths'' it can and should tout. Its record of achievement for fiscal year 2005 alone includes:

Counseling 1.5 million entrepreneurs through the agency's Small Business Development Centers, Business Information Centers, SCORE and Women's Business Centers;

approving over 89,000 business loans through the 7(a) and 504 lending programs;

funding 74,307 7(a) program loans to small businesses for a total of more than $14 billion; and

a doubling of small business lending since 2001, with nearly a third of SBA-backed loans being made to minority-owned small businesses.

Despite a drastically declining share of the Federal budget, the data clearly indicate that the SBA's programs have created or retained a significant number of jobs over the last several years. Between fiscal year 1999 and fiscal year 2004, the SBA's Offices of Advocacy and Legislative Affairs report that the SBA's lending and technical assistance programs enabled participating small businesses to create or retain 4.4 million new jobs. In addition, the SBA's programs have helped to create or retain more jobs during each passing year. In fiscal year 2004, the SBA's programs created or retained 51.2 percent more jobs than they did in fiscal 1999.

Our goal is to build on these tremendous successes. The building blocks for a successful reauthorization are a bipartisan bill: The Small Business Reauthorization and Improvements Act. It is cosponsored by Ranking Member KERRY, Senator VITTER, Senator LANDRIEU, Senator CANTWELL, Senator LIEBERMAN and Senator ISAKSON. This legislation will:

Reform the SBA's largest small business financing program, the section 7(a) loan program, which provided almost $15 billion in loans to small businesses last year, by increasing the maximum size of a loan from $2 million to $3 million.

Require the SBA to implement a more efficient test for loan eligibility that measures businesses' revenues, rather than merely their number of employees.

Establish a national preferred lender program to increase small businesses' access to capital by reducing duplicative administrative burdens on small business loans.

Restructure the Small Business Investment Company Program, an innovative public-private venture capital partnership that has provided more than $25 billion in financing to small businesses.

Expand the SBA's capability to assist disaster victims by allowing private lenders to make loans at lower interest rates.

Increase Federal authority to prosecute, suspend, and debar large corporations which obtain government contracts by misrepresenting themselves as small businesses.

Create a stronger system of SBA size standards to ensure that Federal agencies respect SBA decisions on whether a company that receives a government contract is truly a small business.

Address the small business health insurance crisis by creating a competitive pilot grant program for Small Business Development Centers, SBDCs, to provide counseling and resources to small businesses about health insurance options in their geographic areas.

The legislation also rejects new loan fees. I strongly oppose SBA's proposal to increase fees for these programs. The fees would be charged against every loan that is greater than $1 million. In the 7(a) program, this is 3 percent of loans; in the 504 program, it is 15 percent of loans; and in the SBIC program it's 100 percent of the loans. A fee increase is not the way to balance the budget and it remains wholly unacceptable, to put it mildly.

Increasing fees charged to small businesses end up hurting—not helping our Nation's small businesses. When we consider that the SBA's budget represents less than 3/100ths of a percent of the total Federal budget, is this really the place for the administration to find additional savings? Congress must always strive to ensure that all small businesses are able to access SBA's financing programs without additional penalties.

In 2005, SBA programs disbursed recordbreaking totals of loans to small businesses, both in the number of loans and total dollar value provided to small businesses. During the last fiscal year, the SBA guaranteed over $24 billion in loans and venture capital for small businesses, the highest level of capital ever provided. This included over $1 million in 90 loans to Mainers through the Microloan program, which is an inexpensive program the Bush administration has targeted for elimination.

The SBA's programs demonstrate how Congress can play a positive role in enhancing private-sector financing

for start-up companies. Since 1953, nearly 20 million small business owners have received direct or indirect help from one of the SBA's lending or technical assistance programs, making the agency one of the government's most cost-effective instruments for economic development.

SBA loan and investment programs have produced success story after success story, which include assisting the founders of Intel, Staples, and Federal Express, as well as thousands of other successful businesses. This bill will build upon these past successes and make the SBA even more effective.

The American economy needs a strong and vibrant Small Business Administration. This committee is here to help improve the SBA in any way possible to ensure the success of tomorrow's entrepreneurs. Of course, the agency has been subjected to criticism, including my own. We can move beyond criticism and find solutions to the problems that have plagued the SBA and transform it into an agency that is led with the same dedication to excellence found in the entrepreneurs it serves. The Small Business Reauthorization And Improvements Act will help us achieve that goal.

Mr. KERRY. Mr. President, I rise today as ranking Democrat on the Committee on Small Business and Entrepreneurship, in support of a bipartisan bill being reported out of our committee, the Small Business Reauthorization and Improvements Act of 2006. This bill, which originated in our committee and which is the product of many Senators' work, was voted out unanimously, 18 to 0. While there are no official cosponsors of the legislation because it is an original bill being reported out of committee, I would have been pleased to be added as an original cosponsor, and Senators LANDRIEU, CANTWELL, LIEBERMAN and VITTER also asked to be added as cosponsors. I would like to thank my colleague from Maine, Senator SNOWE, for making this a bipartisan process. This is the fourth Small Business reauthorization bill I have worked on, having been a member of the committee for 21 years. Our committee has the reputation for working across party lines to put what is important for small businesses first, and I appreciate that the Chair and her staff have worked with us on reauthorization with that goal in mind. The result is a comprehensive approach to reauthorizing the SBA for the next 3 years that includes not Republican or Democratic priorities but instead the priorities of America's small businesses.

This reauthorization could not have came at a more opportune time to tackle some of the issues that are eating away at our small business programs and at the core mission of the SBA—which is to foster small business growth and bridge the gaps left by the private sector.

One of the most important things we are here to do today is to address the shortcomings and failures of the SBA's disaster loan program. Nearly a year has passed since Hurricanes Katrina, Rita and Wilma battered the gulf coast, and in that year I have visited New Orleans on three occasions. I can tell you that many of the streets are still covered in debris, and that many of the region's small businesses are barely keeping their doors open. The SBA needs to be prepared to handle an emergency of this magnitude. Thanks in large part to the hard work of Senator LANDRIEU and her dedicated staff, this bill provides the tools to respond swiftly and effectively following future large scale disasters.

Through federally guaranteed bridge loans, States can offer small businesses short-term access to capital so that they can remain open while they wait for other sources of assistance to come through. We provide the President with the authority to declare a new category of disaster—a catastrophic national disaster—which triggers nationwide economic injury disaster loans for businesses located outside the immediate geographic disaster area. And we improve the way SBA and FEMA coordinate disaster assistance. A greater importance needs to be placed on serving the victims, by making the process of applying for and receiving Federal assistance as painless and user friendly as possible. That is why we give the SBA the authority to work with private lenders to get disaster loans out quickly—an idea that members of our committee tried to get SBA to embrace last year. This will only work if we can ensure that these loans do not come at a high cost to disaster victims. We are hopeful that our approach will keep interest rates down.

This bill also addresses the effects that the energy crisis is having on America's small businesses. Gas prices are once again approaching record highs, and for the small businesses that depend on fuel to put food on the table, rising prices mean more than having to decide whether or not to drive to work. Included in the bill is the bipartisan Small Business Energy Emergency Relief Act, a bill which has passed the Senate before, which provides low-interest loans to small businesses dependent on fuel. The loans are triggered when oil prices increase significantly over the average price from the previous two years. This proposal is complemented by Chair SNOWE's 7(a) express loans for small businesses that are willing to invest in renewable energy solutions.

In looking at our core programs, this bill makes a strong statement about the need for the SBA to fill the lending gap in our minority communities. It is unacceptable that since 2001, while numbers of 7(a) loans have gone up for African Americans, the actual dollars loaned have remained stagnant. In the Microloan program, African Americans received 28 percent of the total number of microloans made in 2001 as compared to only 21 percent of the total number of loans made in 2005. Native Americans went from 2 percent of the total number of microloans made in 2001 to less than 1 percent—a mere .93 percent—in 2005. If this trend continues—Native Americans alone will be completely cut out of the Microloan program. The stagnant lending in these communities represents a failure of this administration to expand access to capital to our underserved communities, communities where conventional lending is not meeting the need.

The bill provides an incredible framework for the SBA to reverse this trend. It creates an Office of Minority Small Business Development at the SBA, similar to offices devoted to business development of veterans and women and rural areas, and, it creates a grant program to develop a cross campus curriculum at Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions to encourage minority students in a wide range of fields to consider entrepreneurship. There is much to be done to bridge the wealth gap in minority communities and this is one approach worth pursuing. Finally, the bill incorporates legislation from my colleague, Senator JOHNSON, to provide financial assistance to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers.

One of the keys to ensuring access to capital is making sure that SBA-backed financing remains affordable to the small business community. As we all know, the administration insisted on eliminating all funding for 7(a) loans and shifting the cost to borrowers and lenders by imposing higher fees. The President's budget reveals that borrowers and lenders already pay too much in fees, generating more than $800 million in overpayments since 1992 because the government routinely overestimates the amount of fees needed to cover the cost of the program. This bill seeks to address overpayments by requiring the SBA to lower fees if borrowers and lenders pay more than is necessary to cover the program costs or if the Congress appropriates money for the program.

The bill also reauthorizes the PRIME program through 2009 and includes a provision that Senator BINGAMAN and I worked closely to develop that will expand PRIME with a separate $2 million authorization to provide technical assistance and counseling to disadvantaged Native American small business owners. The bill also includes technical yet important changes in the Microloan program such as making loans to persons with disabilities as one of the statutorily enumerated ''purposes'' of the Microloan program and changing the average smaller loan size in the Microloan program from $7,500 to $10,000.

In reauthorizing one of our other core programs, SBA's 504 loan program, I am pleased that we were able to come

up with a bipartisan approach to preserving the local economic development focus of the program. The ability of our certified development companies, CDCs, to expand operations into multiple States, in conjunction with the growing demand for 504 loans, required that we put in place accountability measures. The 504 program was not created for CDCs to expand operations and simply create revenue from one state to another. CDCs are more than lenders and should not act like for-profit banks. This bill allows CDC board members to serve on another CDC board, but institutes safeguards to prevent control of multiple boards.

The bill also incorporates legislation I have introduced to create a Child Care Lending Pilot Program to expand the availability of affordable, quality childcare in this country by using the 504 loan program to spur the establishment and expansion of childcare providers. Right now only for-profit childcare businesses are eligible for 504 loans, yet in some States a majority of affordable childcare is delivered through nonprofit providers and in the neediest communities nonprofits are often the only provider.

I am pleased that our bill reauthorizes the Women's Business Centers and makes permanent the Women's Business Center Sustainability Pilot Program through the creation of 3-year ''renewal'' grants for centers with sustainability grants, and 4-year ''initial'' grants for new centers across the country. We should not be abandoning our existing centers—many of which leverage Federal dollars to do excellent work in our communities—to run and create new ones. Senator SNOWE and I have been fighting for this for a long time, since I first introduced legislation in 1999: It is time we get this adopted. Our bill also reauthorizes Small Business Development Centers and builds on this excellent resource by creating a pilot program to provide regulatory assistance to small businesses, in addition to the role SBDCs play in the minority entrepreneurship initiative.

One area of our bill which does not deal with reauthorizing SBA programs is just as critical to small businesses—Federal contracting. Earlier this month, we heard the new SBA inspector general Eric Thorson testify about the largest impediments to small businesses receiving their fair share of prime and subcontracting opportunities. He explained how many of the problems in applying and enforcing small business contracting statutes are simply due to contracting officer error. Contracting officers do not know or do not care about small business requirements, and small businesses suffer the consequences. This bill seeks to do something about the disregard that is shown to small businesses with respect to federal procurement policy.

Procurement center representatives, or PCRs, are responsible for advocating on behalf of small businesses in cases affecting Federal contracting, such as the bundling or consolidation of contracts. Unfortunately, there are not enough of them to effectively get the job done. By requiring the SBA to assign no fewer than one PCR per major procurement center, this bill takes steps to limit the incidence of contractor error referred to by Mr. Thorson. We can no longer tolerate the level of neglect that is currently the norm. It is time for the SBA to staff up and fulfill its responsibility as a watchdog for small businesses.

In addition to mandating adequate staffing levels, this bill takes many significant steps to enforce subcontracting and bundling laws already on the books. Firms bidding for small business contracts are required to certify annually as small businesses so we do not have large businesses taking small business contracts, and large prime contractors are required to certify that subcontracting goals will be met. If subcontractors are not paid on a timely basis, Federal agencies are permitted to withhold payments and to pay subcontractors directly. We must stop fraudulent misrepresentation by large firms, and require the administration to start looking out for the interests of small firms that want to do business with the Federal Government.

The time has also come to implement the women's procurement program. The administration has postponed implementing a women's procurement program that became law 6 years ago. This bill tells SBA to get it done within 90 days. It also makes clear that America's service disabled veteran small businesses deserve the same advantages as other subgroups with respect to sole source contracting. Our veterans are returning from Iraq and Afghanistan, and we owe it to them to give them every opportunity at fulfilling the dream of entrepreneurship.

Another program sorely needing our attention: The 8(a) program was created to assist socially and economically disadvantaged small businesses, but the financial threshold for inclusion in the program is out dated and too restrictive. This bill allows for an inflationary adjustment to be made so that businesses that belong in this program aren't being shut out.

Finally, let me say a few words about SBIR, the Small Business Innovation Research Program. The Small Business Committee had a hearing on SBIR earlier this month, and at that time, I made clear my concern that we were being premature in going ahead with reauthorizing SBIR when the program's authorization doesn't expire until 2008. There is a $5 million National Academy of Sciences study due to come out at the end of this year that I am certain will give us much to consider. Yet, this bill does reauthorize SBIR, making it permanent, and it includes some strong provisions to protect SBIR companies' intellectual property and to reign in excessively large awards—which are a particular problem at NIH. While SBIR Phase IIs are supposed to be $750,000, NIH Phase II are often larger. One Phase II award reportedly equalled $6 million. While the firms getting these large awards may be doing important work, we need to keep in mind that if one firm receives $6 million, there are many firms that are not getting Phase IIs at all. That is why I am glad that we have adopted Senator BAYH's proposal to increase the overall share of SBIR funds from 2.5 percent to 5 percent of Federal research budgets, so that more small businesses will have a chance to compete in this program. I also support several provisions in the bill to encourage commercialization, one of the biggest challenges facing the program.

There is one provision in this bill that was added during our committee markup which concerns me, a provision which gives Federal agencies the option to direct 25 percent of SBIR funds to firms which are majority backed by venture capital investment. The firms which will benefit from this provision are primarily biotechnology firms and no one disagrees that they are doing critical work and should receive Federal support. I am committed to finding a way to help biotechnology firms but I am concerned that this set-aside may crowd out small firms that are not blessed with venture capital. SBIR is the only Federal research and development program devoted to small business and it has been universally praised for fostering innovative technologies and lifesaving therapies and medical devices that may never attract the support of venture capital firms. SBIR serves as seed funding for the companies that are willing to take on these research and development projects. It is important to retain the integrity of this program, and I look forward to working with my colleagues to find a way to strike a balance so that we can continue to support cutting edge research that is at so early a stage it has yet to attract the private sector.

Mr. President, before I close, I want to note that while this bill is truly bipartisan, so was our last reauthorization bill back in 2003, S. 1375. However, the reauthorization bill that was finally adopted back in 2004, was a notably partisan product, attached to an omnibus appropriations bill, with almost all Democratic provisions dropped. I urge the Senate to maintain today's spirit of bipartisanship as we move forward, so that the final reauthorization bill truly reflects all of our efforts.